OSHA Standards Development

OSHA can begin standards-setting procedures on its own initiative, or in response to petitions from other parties, including the Secretary of Health and Human Services (HHS); the National Institute for Occupational Safety and Health (NIOSH); state and local governments; any nationally-recognized standards-producing organization; employer or labor representatives; or any other interested person.

Advisory Committees

If OSHA determines that a specific standard is needed, any of several advisory committees may be called upon to develop specific recommendations. There are two standing committees, and ad hoc committees may be appointed to examine special areas of concern to OSHA. All Advisory committees, standing or ad hoc, must have members representing management, labor, and state agencies, as well as one or more designees of the Secretary of HHS. The two standing advisory committees are:

- National Advisory Committee on Occupational Safety and Health (NACOSH), which advises, consults with, and makes recommendations to the Secretary of HHS and to the Secretary of Labor on matters regarding administration of the Act.
- Advisory Committee on Construction Safety and Health, which advises the Secretary of Labor on formulation of construction safety and health standards and other regulations.

NIOSH Recommendations

Recommendations for standards also may come from NIOSH, established by the Act as an agency of the Department of HHS.

NIOSH conducts research on various safety and health problems, provides technical assistance to OSHA and recommends standards for OSHA's adoption. While conducting its research, NIOSH may make workplace investigations, gather testimony from employers and employees and require that employers measure and report employee exposure to potentially hazardous materials. NIOSH also may require employers to provide medical examinations and tests to determine the incidence of occupational illness among employees. When such examinations and tests are required by NIOSH for research purposes, they may be paid for by NIOSH rather than the employer.

Standards Adoption

Once OSHA has developed plans to propose, amend or revoke a standard, it publishes these intentions in the Federal Register as a "Notice of Proposed Rulemaking," or often as an earlier "Advance Notice of Proposed Rulemaking."

An "Advance Notice" is used, when necessary, to solicit information that can be used in drafting a proposal. The Notice of Proposed Rulemaking will include the terms of the new rule and provide a specific time (at least 30 days from the date of publication, usually 60 days or more) for the public to respond.

Interested parties who submit written arguments and pertinent evidence may request a public hearing on the proposal when none has been announced in the notice. When such a hearing is requested, OSHA will schedule one, and will publish, in advance, the time and place for it in the Federal Register. After the close of the comment period and public hearing, if one is held, OSHA must publish in the Federal Register the full, final text of any standard amended or adopted and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it. OSHA may also publish a determination that no standard or amendment needs to be issued.

Emergency Temporary Standards

Under certain limited conditions, OSHA is authorized to set emergency temporary standards that take effect immediately and are in effect until superseded by a permanent standard. OSHA must determine that workers are in grave danger due to exposure to toxic substances or agents determined to be toxic or physically harmful or to new hazards and that an emergency standard is needed to protect them. Then, OSHA publishes the emergency temporary standard in the Federal Register, where it also serves as a proposed permanent standard. It is then subject to the usual procedure for adopting a permanent standard except that a final ruling should be made within six months. The validity of an emergency temporary standard may be challenged in an appropriate U.S. Court of Appeals.

Appealing a Standard

No decision on a permanent standard is ever reached without due consideration of the arguments and data received from the public in written submissions and at hearings. Any person who may be adversely affected by a final or emergency standard, however, may file a petition (within 60 days of the rule's promulgation) for judicial review of the standard with the U.S. Court of Appeals for the circuit in which the objector lives or has his or her principal place of business. Filing an appeals petition, however, will not delay the enforcement of a standard, unless the Court of Appeals specifically orders it.

Variances

Employers may ask OSHA for a variance from a standard or regulation if they cannot fully comply by the effective date, due to shortages of materials, equipment or professional or technical personnel, or can prove their facilities or methods of operation provide employee protection "at least as effective" as that required by OSHA.

Employers located in states with their own occupational safety and health programs should apply to the state for a variance. If however, an employer operates facilities in states under federal OSHA jurisdiction and also in state plan states, the employer may apply directly to federal OSHA for a single variance applicable to all the establishments in question. OSHA will then work with the state plan states involved to determine if a variance can be granted which will satisfy state as well as federal OSHA requirements.

Temporary Variance

A temporary variance may be granted to an employer who cannot comply with a standard or regulation by its effective date due to unavailability of professional or technical personnel, materials or equipment, or because the necessary construction or alternation of facilities cannot be completed in time.

Employers must demonstrate to OSHA that they are taking all available steps to safeguard employees in the meantime, and that the employer has put in force an effective program for coming into compliance with the standard or regulation as quickly as possible.

A temporary variance may be granted for the period needed to achieve compliance or for one year, whichever is shorter. It is renewable twice, each time for six months. An application for a temporary variance must identify the standard or portion of a standard from which the variance is requested and the reasons why the employer cannot comply with the standard. The employer must document those measures already taken and to be taken (including dates) to comply with the standard.

The employer must certify that workers have been informed of the variance application, that a copy has been given to the employees' authorized representative, and that a summary of the application has been posted wherever notices are normally posted. Employees also must be informed that they have the right to request a hearing on the application

The temporary variance will not be granted to an employer who simply cannot afford to pay for the necessary alterations, equipment, or personnel.

Permanent Variance

A permanent variance (alternative to a particular requirement or standard may be granted to employers who prove their conditions, practices, means, methods, operations, or processes provide a safe and healthful workplace as effectively as would compliance with the standard.

In making a determination, OSHA weighs the employer's evidence and arranges a variance inspection and hearing where appropriate. If OSHA finds the request valid, it prescribes a permanent variance detailing the employer's specific exceptions and responsibilities under the ruling.

When applying for a permanent variance, the employer must inform employees of the application and of their right to request a hearing. Anytime after six months from the issuance of a permanent variance, the employer or employees may petition OSHA to modify or revoke it. OSHA also may do this of its own accord.

Interim Order

So that employers may continue to operate under existing conditions until a variance decision is made, they may apply to OSHA for an interim order. Application for an interim order may be made either at the same time as, or after, application for a variance. Reasons why the order should be granted may be included in the interim order application.

If OSHA denies the request, the employer is notified of the reason for denial.

If the interim order is granted, the employer and other concerned parties are informed of the order, and the terms of the order are published in the Federal Register (see p. 5 on how to obtain the Federal Register). The employer must inform employees of the order by giving a copy to the authorized employee representative add by posting a copy wherever notices are normally posted.

Experimental Variance

If an employer is participating in an experiment to demonstrate or validate new job safety and health techniques, and that experiment has been approved by either the Secretary of Labor or the Secretary of HHS, a variance may be granted to permit the experiment.

Other

In addition to temporary, permanent, arid experimental variances, the Secretary of Labor also may find certain variances justified when the national defense is impaired. For further information and assistance in applying for a variance, contact the nearest OSHA office.

Variances are not retroactive. An employer who has been cited for a standards violation may not seek relief from the citation by applying for a variance. The fact that a citation is outstanding, however, does not prevent an employer from filing a variance application.

Public Petitions

OSHA continually reviews its standards to keep pace with developing and changing industrial technology. Therefore, employers and employees should be aware that, just as they may petition OSHA for the development of standards, they also may petition OSHA for modification or revocation of standards.

OSHA Standards Numbering
Subparts and Sections

Under Title 29, Chapter XVII, the OSHA regulations are broken down into Parts. Part 1910, for example, is the standard commonly known as the OSHA General Industry standards. Part 1926 covers OSHA construction standards and Parts 1915, 1917 and 1918 include the OSHA standards for the maritime industry.

Subparts

Under each part, such as Part 1910, major blocks of information are further broken into subparts. The major subparts in 1910 standards include:

Subpart D	Walking-Working Surfaces
Subpart E	Means of Egress
Subpart F	Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms
Subpart G	Occupational Health and Environmental Control
Subpart H	Hazardous Materials
Subpart I	Personal Protective Equipment
Subpart J	General Environmental Controls
Subpart K	Medical and First Aid
Subpart L	Fire Protection
Subpart M	Compressed Gas and Compressed Air Equipment
Subpart N	Materials Handling and Storage
Subpart O	Machinery and Machine Guarding
Subpart P	Hand and Portable Powered Tools
Subpart Q	Welding, Cutting and Brazing
Subpart R	Special Industries
Subpart S	Electrical
Subpart Z	Toxic and Hazardous Substances

Sections

Each Subpart is further broken down into sections. For example, Subpart D – Walking-Working Surfaces has sections 1910.21 through 1910.30.

1910.21 - Definitions.
1910.22 - General requirements.

1910.23 - Guarding floor and wall openings and holes.
1910.24 - Fixed industrial stairs.
1910.25 - Portable wood ladders.
1910.26 - Portable metal ladders.
1910.27 - Fixed ladders.
1910.28 - Safety requirements for scaffolding.
1910.29 - Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 - Other working surfaces.

HANDOUT #8b

How to Read the OSHA Standards
29 CFR 1926 – Construction

UNDER TITLE 29, CHAPTER XVII, THE OSHA REGULATIONS ARE BROKEN DOWN INTO PARTS. PART 1926, FOR EXAMPLE, IS COMMONLY KNOWN AS THE OSHA CONSTRUCTION STANDARDS. PART 1910 COVERS OSHA GENERAL INDUSTRY STANDARDS AND PARTS 1915, 1917 AND 1918 INCLUDE THE OSHA STANDARDS FOR THE MARITIME INDUSTRY.

SUBPARTS

UNDER EACH PART, SUCH AS PART 1926, MAJOR BLOCKS OF INFORMATION ARE FURTHER BROKEN INTO SUBPARTS. THE MAJOR SUBPARTS IN 1926 STANDARDS INCLUDE:

Subpart C	**General Safety and Health Provisions**
Subpart D	Occupational Health and Environmental Controls
Subpart E	Personal Protective and Life Saving Equipment
Subpart F	Fire Protection and Prevention
Subpart G	Signs, Signals and Barricades
Subpart H	Materials Handling, Storage, Use, and Disposal
Subpart I	Tools – Hand and Power
Subpart J	Welding and Cutting
Subpart K	Electrical
Subpart L	Scaffolds
Subpart M	Fall Protection
Subpart N	Cranes, Derricks, Hoists, Elevators, and Conveyors
Subpart O	Motor Vehicles, Mechanized Equipment, and Marine Operations
Subpart P	Excavations
Subpart Q	Concrete and Masonry Construction
Subpart R	Steel Erection
Subpart S	Underground Construction, Caissons, Cofferdams, and Compressed Air
Subpart T	Demolition
Subpart U	Blasting and the Use of Explosives
Subpart V	Power Transmission and Distribution
Subpart W	Rollover Protective Structures; Overhead Protection
Subpart X	Ladders
Subpart Y	Commercial Diving
Subpart Z	Toxic and Hazardous Substances

SECTIONS

EACH SUBPART IS FURTHER BROKEN DOWN INTO SECTIONS. FOR EXAMPLE, SUBPART C – GENERAL SAFETY AND HEALTH PROVISIONS, HAS SECTIONS 1926.20 THROUGH 1926.35.

- 1926.20 – General safety and health provisions.
- 1926.21 – Safety training and education.
- 1926.22 – Recording and reporting of injuries.
- 1926.23 – First aid and medical attention.
- 1926.24 – Fire protection and prevention.
- 1926.25 – Housekeeping.
- 1926.26 – Illumination.
- 1926.27 – Sanitation.
- 1926.28 – Personal protective equipment.
- 1926.29 – Acceptable certifications.
- 1926.30 – Shipbuilding and ship repairing
- 1926.31 – Incorporation by reference.
- 1926.32 – Definitions.
- 1926.33 – Access to employee exposure and medical records.
- 1926.34 – Means of egress.
- 1926.35 – Employee emergency action plans.

NOTES:

EXAMPLE: READING OSHA STANDARD NUMBERS

STANDARD: **29 CFR 1926.152(i)(1)(i)(C)**
Tanks built of materials other than steel shall be designed to specifications embodying principles recognized as good engineering design for the material used.

BREAKING DOWN THE NUMBER:

TITLE	CODE OF FED. REG.	PART	SECTION	LOWER CASE ALPHA	ARABIC NUMBER	LOWER CASE ROMAN	CAPITAL/UPPER CASE ALPHA*
29	CFR	1926	.152	(i)	(1)	(i)	(C)

*FOR STANDARDS PROMULGATED AFTER 1979, A CAPITAL/UPPER CASE LETTER IS USED IN THE FOURTH SET OF PARENTHESES. PRIOR TO 1979, THE FOURTH SET OF PARENTESES ARE ITALICIZED.